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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,800	03/15/2004	William M. Terry	W0508.001	1916
37771	7590	03/26/2007		
John Nielsen RANDICK O'DEA & TOOLIATOS, LLP 5000 HOPYARD ROAD, SUITE 400 PLEASANTON, CA 94588			EXAMINER MORGAN JR, JACK HOSMER	
			ART UNIT	PAPER NUMBER
			3782	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/26/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/801,800

Applicant(s)

TERRY, WILLIAM M.

Examiner

Jack H. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 25-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1-24 in the reply filed on 9 February 2007 is acknowledged.
2. Claims 25-33 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9 February 2007.

### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the snap closures, snap flap closures, zipper closures, zipper flap closures, button and buttonhole closures, button and buttonhole with flap closure, strap across ends, and handle across an opening, of claims 11, 12, 13, 15, 16, 17, 18 and 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The use of the trademark Velcro on pages 3 and 5 has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

5. The disclosure is objected to because of the following informalities: On page 6, line 6, a fractured sentence starts the paragraph. It is unclear if that should be attached to the previous paragraph, or if a portion of the disclosure is missing.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the term "Velcro" renders the claim indefinite as the meets and bounds of the claims cannot be established using trademarks. For the purposes of this examination, the generic term --hook and loop-- was instead used. If the trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of the 35 U.S.C. 112, second paragraph. *Ex Parte Simpson*, 218 USPQ 1020 (Bd. App. 1982).

7. Claims 9/3 – 18/3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the term "ends that can be closed" in claims 9-14, "ends that can be secured" in claim 15, and "ends for closing the openings" in claims 15-18 are indefinite as claim 3, which they depend on, only positively claims 1 end with an opening. Therefore, the plural ends lack antecedent basis, and are therefore indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 3, 5/1,3, 7/1,3, 8/1,3, 19/1,3, 20/1,3, 22/1,3, 23/1,3 and 24/1,3 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulman (US 6,190,045). Schulman discloses a pouch (Fig 1) having a first opening in one end (26), a second opening in the opposite end (27) where the pouch is shaped so the width near the middle is wider than the width at either of the end openings, said pouch being round in shape, and elongated, further being composed of washable fabric (abstract), meeting the applicants claimed limitation of "cloth". Schulman further discloses the pouch having a handle (2) attached for carrying, said handle being a loop, which could alternatively be seen as a hole, allowing the pouch to be hung on a peg or dowel (1).

9. Claims 1, 3, 5/1,3, 7/1,3, 8/1,3, 9/1,3 and 14/1,3 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al. (US 6,085,695). Miller et al. disclose a pouch (Fig 2) having a first opening in one end (11), a second opening in the opposite end (13) where the pouch is shaped so the width near the middle is wider than the width at either of the end openings, said pouch being round in shape, and elongated, further being composed of natural or synthetic fabric (Col 2, lines 40-42), meeting the

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applicants claimed limitation of "cloth". Miller et al. further disclose drawstrings (2) to close the ends of the pouch.

10. Claims 1, 2, 3, 5/1-3, 7/1-3 and 8/1-3 are rejected under 35 U.S.C 102(b) as being anticipated by Anderson (US 5,451,108). Anderson discloses a pouch (Fig 1) having a first opening in one end (13), a second, smaller opening in the opposite end (14) where the pouch is shaped so the width near the middle is wider than the width at either of the end openings, said pouch being round in shape, and elongated, further being composed of cotton fabric (Col 2, line 43), meeting the applicants claimed limitation of "cloth".

11. Claims 1, 2, 3, 5/1-3, 7/1-3, 8/1-3, 19/1-3, 20/1-3, 21/1-3, 22/1-3, 23/1-3 and 24/1-3 are rejected under 35 U.S.C 102(b) as being anticipated by Geller (US 3,322,176). Geller discloses a pouch (Fig 2) having a first opening in one end (3), a second, smaller opening in the opposite end (8) where the pouch is shaped so the width near the middle is wider than the width at either of the end openings, said pouch being round in shape, and elongated, further being composed of cotton fabric (Col 1, line 45), meeting the applicants claimed limitation of "cloth". Geller further discloses the pouch having a handle (2) crossing an opening of the bag (3) attached for carrying, said handle being a loop, which could alternatively be seen as a hole, allowing the pouch to be hung on a peg or dowel.

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12. Claims 1, 2, 3, 4/1-3, 5/1-3 and 8/1-3 are rejected under 35 U.S.C 102(b) as being anticipated by Nevitt (US 3,150,640). Nevitt discloses a pouch (Fig 1-3) having a first opening in one end (60), a second opening in the opposite end (30, 38), where the first and second openings are different sizes, the first having a larger diameter than the second, and further where the pouch is shaped so the width near the middle is wider than the width at either of the end openings, said pouch being round in shape, and elongated, further being composed of woven fabric (Col 3, lines 54-58), meeting the applicants claimed limitation of "cloth". Further, Nevitt discloses a zipper (Fig 2, 82) running longitudinally allowing the first opening (60) to be widened for easier insertion of objects into the bag.

13. Claims 3, 7/3, 9/3, 13/3 and 18/3 are rejected under 35 U.S.C 102(b) as being anticipated by Blauer (US 2,880,422). Blauer discloses a pouch (Fig 1, 3) having a first opening in one end (14), where the pouch is shaped so the width near the middle is wider than the width at either of the ends, said pouch being round in shape, further, the pouch having a flaps (15, 17) at the open end which may be closed and held shut by a button and buttonhole (See Fig 3).

14. Claims 3, 6/3, 9/3, 17/3, 19/3, 20/3, 22/3 and 24/3 are rejected under 35 U.S.C 102(b) as being anticipated by Revels et al. (US 6,353,215). Revels et al. disclose a pouch (Fig 1) having a first opening in one end (30), where the pouch is shaped so the width near the middle is wider than the width at either of the ends, said pouch being



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round in shape and being made out of flexible polyurethane (Col 2, lines 34-36) further the pouch having a handle (20) attached for carrying, said handle being a loop, allowing the pouch to be hung on a peg or dowel and having a zipper (30) at the end for closing the opening.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 9/1-3 and 14/1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 5,451,108). Anderson discloses all the limitations of the claims except for a closing mechanism at each of the open ends, said mechanism comprising a drawstring. Anderson does however disclose the top opening (13) having a drawstring (15) in order to more easily fill the pouch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a drawstring closure to the second opening in order to more easily fill and empty the from the second opening, since such a modification would amount to a mere duplication of parts. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

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16. Claims 6/1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 5,451,108) in view of Revels et al. (US 6,353,215). Anderson discloses all the limitations of the claims except for the pouch being made of flexible polyurethane, instead disclosing a pouch made of plastic film (Col 2, line 4). Revels et al. discloses a pouch made out of polyurethane, in order to provide a moisture impermeable pouch (Col 2, lines 34-36). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the pouch of Anderson out of moisture impermeable polyurethane as taught by Revels et al. in order to make a waterproof pouch.

17. Claims 1, 2, 3, 7/1-3, 8/1-3, 15/1-3, 19/1-3, 20/1-3, 21/1-3, 22/1-3 and 24/1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stirtz (US 4,688,674) in view of Anderson (US 5,451,108). Stirtz discloses a cord holding pouch having a first opening (30) at one end of the pouch, and a second, smaller opening (22) at the other end of the pouch, wherein the pouch is round and elongated in shape, and a strap is provided at one end to prevent cord from falling out. Stirtz further disclosing a handle (36) to assist in carrying the pouch, capable of hanging the pouch from a nail, peg or dowel, as the handle comprises a loop. However, Stirtz does not disclose the middle of the pouch being wider than the width at either of the end openings, or disclose a strap provided at the second end of the bag to prevent cord from falling out. Anderson discloses a pouch having a wider middle than ends, which allows the pouch to hold more, as well as provide a more controlled release of the materials held inside. Therefore it would have been obvious to one of ordinary skill in the art at the time of

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invention to create the cord holding pouch of Stirtz with the wider middle section as taught by Anderson in order to carry a greater volume of material inside the pouch, while still controlling the speed of release of said material.

In regards to the strap over the second end, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a second strap to prevent the cord from falling out the second open end of the pouch, since such a modification would amount to a mere duplication of parts. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

In regards to claim 21, the Stirtz could alternatively disclose a handle (32) across an at least one opening of the pouch, insofar as applicant's claim sets out the structure for a handle.

18. Claims 10/1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 5,451,108) in view of Lyman (US 4,988,216). Anderson discloses all the limitations of the claims except for the pouch being closed at each end using flaps said flaps being held shut using hook and loop material. Lyman discloses an elongate pouch (Fig 1, 2) having an opening (13), which has a flap (28) to close it, and said flap is held in the closed position, with hook and loop material (32 and 34) in order securely close the pouch and prevent items from falling out. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the pouch of Anderson

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with the flap with hook and loop closures at each end in order to securely close the pouch and prevent items from falling out.

19. Claims 11/1-3, 12/1-3, 13/1-3, 16/1-3, 17/1-3 and 18/1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 5,451,108) in view of Lyman (US 4,988,216) as applied to claims 10/1-3 above. Anderson in view of Lyman as modified above discloses all the limitations of the claims except for flaps closed using snaps, flaps closed using zippers, flaps closed using buttons and buttonholes, snaps at the ends for closing the openings, zipper at the ends for closing the openings and button and buttonholes for closing the openings. Examiner takes official notice that it is well known in the bag making art to close bags with flaps, and to keep bags closed by using zippers, snaps and buttons and buttonholes in order to close a bag and keep it closed. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the flaps on the bag of Anderson as modified above with snaps, zippers and buttons and buttonholes in order to keep the bags securely closed.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fornell (US 2,740,445), Hacker (4,090,542), Ruhaut (US 4,979,614), Wachtel (US 5,050,998), Witt et al. (US 6,478,157) and Morrison et al. (US 6,789,671).

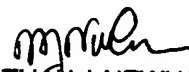
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack H Morgan  
Examiner  
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NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER